

Message Text

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PAGE 01 ISLAMA 05029 211204 Z

42

ACTION NEA-12

INFO OCT-01 EUR-25 ADP-00 RSR-01 CIAE-00 DODE-00 PM-07

H-02 INR-10 L-03 NSAE-00 NSC-10 PA-03 RSC-01 PRS-01

SS-15 USIA-12 OMB-01 SR-02 ORM-03 DPW-01 IO-13 AID-20

IGA-02 ACDA-19 /164 W

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R 211114 Z JUN 73

FM AMEMBASSY ISLAMABAD

TO SECSTATE WASHDC 9734

INFO AMEMBASSY DACCA

AMCONSUL KARACHI

AMCONSUL LAHORE

AMEMBASSY LONDON

AMEMBASSY NEW DELHI

AMEMBASSY THE HAGUE

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E. O. 11652: N/ A

TAGS: PFOR, PK, IN, BG

SUBJ: ICJ CASE: PAK PROPOSAL ON POWS

1. LOCAL PRESS HAS BEEN PUBLISHING EXTENSIVE EXCERPTS FROM PAKISTAN ATTORNEY GENERAL'S WRITTEN SUBMISSION TO ICJ DURING JUNE 4-5 PRELIMINARY HEARING ON PAK CASE AGAINST INDIA OVER WAR CRIMES TRIALS FOR PAK POWS. BULK OF SUBMISSION CONSISTS OF DETAILED, SEEMINGLY WELL REASONED, ENUNCIATION OF LEGAL PRINCIPLES, PRECEDENTS, ETC., TO SUPPORT PAK POSITION AND REFUTE INDIAN DENIAL OF ICJ JURISDICTION. WE WERE STRUCK, HOWEVER, BY ONE PARAGRAPH NEAR END OF PAK SUBMISSION WHICH READS AS FOLLOWS:

" IN ORDER TO PRESERVE THE RIGHTS OF PAKISTAN, THE COURT COULD, WE SUBMIT, CALL ON INDIA TO SPECIFY THE NAMES AND PARTICULARS OF THE 195 ACCUSED,

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PAGE 02 ISLAMA 05029 211204 Z

AND TO CONTINUE THE PROCESS OF IMPLEMENTATION OF THE GENEVA CONVENTIONS WITH RESPECT TO THE REST. THIS SUBMISSION, MR. PRESIDENT, IS OF COURSE WITHOUT PREJUDICE TO PAKISTAN'S RIGHT TO REPATRIATE THE 195 PRISONERS OF WAR WHO ARE TO BE ACCUSED."

2. IF WE READ THIS PARAGRAPH CORRECTLY, GOP IS SUGGESTING THAT IT IS PREPARED TO COUNTENANCE CONTINUED RETENTION BY INDIA (NOT BANGLADESH) OF THE 195 POWS ACCUSED BY DACCA OF WAR CRIMES IF GOI WILL, IN TURN, RETURN ALL REMAINING POWS. THIS APPEARS TO GIVE SUBSTANCE TO SUGGESTION FLOATED BY MFA DIRGEN FOR SOUTH ASIA IN MAY 17 MEETING WITH EMBOFF (ISLAMABAD 4049) THAT INDIA HOLD BACK THE 195 POWS, PAKISTAN RETAIN EQUIVALENT NUMBER SENIOR BENGALI CIVIL SERVANTS, AND BOTH SIDES REPATRIATE ALL REMAINING POWS AND BENGALI CIVIL SERVANTS, WITH FATE OF THOSE HELD BACK TO BE DETERMINED BY SUBSEQUENT LEGAL PROCESSES AND, ULTIMATELY, NEGOTIATIONS.

3. OCCURS TO US THAT THIS PROPOSAL COULD PROVIDE BASIS FOR RESOLVING AT LEAST PART OF CURRENT IMPASSE. IT FINESSES QUESTION OF THE QUARTER MILLION BIHARIS BANGLADESH WISHES TRANSFER TO PAKISTAN, OF COURSE, BUT LATTER APPEARS IN ESSENCE TO BE QUESTION OF HOW MANY GOP WILL TAKE, AND COULD BE TACKLED THROUGH CONCURRENT NEGOTIATIONS.

4. WOULD BE INTERESTING TO KNOW WHETHER INDIAN EYE CAUGHT BY THIS PARAGRAPH IN PAK SUBMISSION.
SOBER

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*** Current Classification *** LIMITED OFFICIAL USE

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